

THE LEGALITIES SURROUNDING “OPTING-OUT” OF STANDARDIZED TESTS IN MAINE

An annual assessment of all students is required by state law

Maine State Statutes requires that “Each student must be assessed by means of a statewide assessment...” (See: MRSA 20-A, §6209: 1-A).

An annual assessment of all students is required by federal law

ESEA - PART A; Subpart 1; (2); (I) ACCOUNTABILITY (State) (ii) “not less than 95 percent of each group of students described in subparagraph (C)(v) who are enrolled in the school are required to take the assessments, consistent with paragraph (3)(C)(x)”¹

Local school districts are allowed by state law to make assessments mandatory

Local districts are allowed by state law to require assessment participation as a condition of graduation. According to state law, the requirements of a diploma include that the student must “Meet any other requirements specified by the governing body of the school administrative unit attended by the student.” These could include local requirements such as community service, a graduation test, or participation in assessments. (See: MRSA 20-A; §4722-A. 1. D.).

To receive federal funds a local school district must certify their compliance with federal law including the requirement to test at least 95% of students.

Under the “General Assurance” section of the request for Federal Grant Reimbursement is the phrase “I hereby certify that, to the best of my knowledge: ... the grantee will comply with all assurances and certifications listed in this Grant Request.” A representative of the school district (superintendent) must then certify via signature that they will comply with all of the requirements including testing 95% of students.

Opting-opt may nullify the State Plan agreed to between the state and federal governments that enable local districts to receive federal funds.

Maine has included 95% participation in its state accountability plan for measuring all schools as required. This is part of the agreement that enables Maine to maintain its funding for Title I and other federal programs totaling **\$219 million** per year. (See: ESEA: SEC. 1111. (b)(2)(I)(ii)).

Laws Relating to Statewide Standardized Tests

Maine State Law Requiring Assessments (emphasis added)

MRSA 20-A, §6209: 1-A. *Accountability standards. Each student must be assessed by means of a statewide assessment in the following areas: A. Reading; B. Mathematics; and C. Science, in those content areas concerning cells and continuity and change.*

Federal Law Requiring Local Schools to Conduct Assessments (ESEA)

ESEA - PART A; Subpart 1; (2); (I) ACCOUNTABILITY (State)

(ii) not less than 95 percent of each group of students described in subparagraph (C)(v) who are enrolled in the school are required to take the assessments, consistent with paragraph (3)(C)(x)¹

Local Authority to Require Assessment Participation

Title 20-A; §4722-A. Proficiency-based diploma standards

1. Requirements for award of diploma. In order to receive a diploma indicating graduation from secondary school, a student must:

D. Meet any other requirements specified by the governing body of the school administrative unit attended by the student.

Local Requirement to Abide by 95%

ESEA SEC. 1111. STATE PLANS, (b)(2)(I)(ii), Maine has included 95% participation in our state accountability plan for measuring all schools as required.

Subpart 1: (3) ACADEMIC ASSESSMENTS.— (C) REQUIREMENTS.—*Such assessments shall— (i) be the same academic assessments used to measure the achievement of all children; (ix) provide for—(I) the participation in such assessments of all students;*

ESEA SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS (a)(1) , *a local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency.*

¹ (3) Academic Assessments; (C) Requirements; (v) Grades 3-8 and 11 assessed at least once in at least math and ELA. (xi) “include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, except that the performance of students who have attended more than 1 school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency.”